

## REMARKS

Claims 84-97, 99 and 101 are rejected as anticipated by the patent to Naftzger and Claims 98 and 100 are rejected as obvious over Naftzger. Reconsideration and withdrawal of the rejections is solicited.

Claims 84, 86-88, 90, and 92-94 have been amended to clarify claim limitations.

This is a continuing application, the original application having issued as Patent No. 6,748,365. The claims in the original application were directed to the processing of rebate claims in which the customer submitted a transaction code as contrasted with a product code, i.e., a transaction code being something that uniquely identifies the transaction in which one or more items were purchased that had one or more rebate offers associated therewith, and a product code being something that uniquely identifies a specific rebatable item being purchased in the transaction. As stated by the examiner at the time of allowance:

The code generated in the closest prior art Finsterwald (US 6,039,244) and Fajkowski (US 6,905,246) equated to a rebate code, not a transaction code.. . . Therefore, Finsterwald and Fajowski, either singularly or in combination, fail to anticipate or render obvious sending a transaction code. Therefore, the examiner considers the novel feature of the invention to be submitting a transaction code to the rebate center instead of a rebate code.

While it is clear that the examiner's comments were directed to the "invention" as defined by the single independent claim before him at the time, a claim which related *inter alia* to the code submitted by the customer, and while the prosecution history as a whole is the best evidence of the patentability of such claim, it is also clear that the

examiner expressly recognized the distinction between a code that identified a transaction and a code that identified a specific item purchased in such transaction.

Naftzger is directed to a system that provides an immediate price discount at the point of sale, clearly not a rebate in which some action must be taken by the customer at a time temporally separated from the sales transaction. The relevant rebate prior art has long been known to the examiner from his examination of the related rebate applications and all rejections on such relevant art has been overcome in such applications. While the examiner's thoroughness and desire to have all possibly relevant prior art cited in the application are commendable, the present citation by the examiner of non-rebate prior art is a step backwards in the examination of this rebate application.

Naftzger specifically discloses a system described as a "method of providing point-of-sale discounts" (col. 13, lines 54 et seq.) in which there is a point-of-sale transactional device 14 (Fig. 1) at which the cashier scans the items to be purchased to input product identifying codes (col. 7, lines 44-45; col. 14, lines 41-44). During this process, the customer enters a promotional code 78 (Fig. 6) which is validated and the associated discount transmitted to the point-of-sale device 14 where the discount is subtracted 92 (Fig. 6) from the total sale price (col. 9, lines 58-63; col. 16, lines 13-20).

There is a fundamental difference between point-of-sale discount marketing and rebate marketing, and Naftzger is the equivalent of an instant coupon discount received at the point-of-sale and at the time of the transaction. In instant discount systems there is no need to store information about the transaction since the discount criteria is evaluated at the time of the transaction and the customer receives the discount at the point-of-sale.

The relevant marketing data relates to the success of the promotion, e.g., how many customers took advantage of the promotion advertised in different media (col. 17, lines 45-63) and the examiner's attempted reading of the claims on Naftzger is not supported by the citations to Naftzger.

In contrast to an instant discount system, the present application is directed to rebate processing, and specifically the use of a unique transaction identifier which helps obviate the common problem of fraudulent rebate submissions. In a rebate promotion, the customer does not receive an instant discount, but instead is required to take some action subsequent to the purchase of the rebated product. Thus, the rebate is not validated until after the purchase transaction has taken place and therefore some means for ensuring that the transaction actually took place, i.e., the product was actually bought by the consumer, is necessary in order to validate the rebate. Typically this validation required the submission of a product code physically removed from the purchased product. The present application does not require the purchaser to submit any product specific information because the unique transaction identifier can be used to ensure the product was actually purchased.

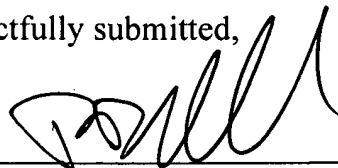
Instant discount systems such as Naftzger are not concerned with post purchase transaction validation because the discount is provided instantly at the point of sale and no post transaction conduct is contemplated. Thus it is improper for the examiner to equate the promotion code discussed in Naftzger, with the unique transaction identifier recited in each of the independent claims of the present application. In all cases, the Naftzger promotional codes are assigned by the manufacturer or wholesaler prior to the

advertisement of the promotion and well prior to the time of the transaction taking place at the point of sale. The generation of promotional codes is separated in time and purpose from the from the recited transaction identifier. Such promotional codes are assigned by the manufacturer or wholesaler and stored in a data base for the purpose of identifying products that are subject to an instant discount and for determining the amount of the instant discount during the point of sale transaction. To the contrary, the claimed transaction identifier is assigned and provided to the customer at the time of the point of sale identifying characteristics of the sale, and thus cannot be stored in a data base prior to the sale. The transaction identifier is used to validate that a rebated product was actually purchased and provide the rebate amount to the customer long after the point of sale purchase is completed.

Promotion codes are clearly not transaction codes. They are assigned by different entities for different purposes at different times and contain different information. Each of the differences are material, and thus there is no disclosure of each of the elements recited in the pending claims.

Reconsideration and withdrawal of the rejections and the immediate allowance of the application is accordingly solicited.

Respectfully submitted,



---

Patrick D. McPherson

Reg. No. 46,255

DUANE MORRIS LLP  
1667 K Street, N.W., Suite 700  
Washington, DC 20006  
Telephone: (202) 776-7800  
Telecopier: (202) 776-7801

Dated: December 28, 2006